

Entered on Docket

April 11, 2016

EDWARD J. EMMONS, CLERK

U.S. BANKRUPTCY COURT

NORTHERN DISTRICT OF CALIFORNIA



1 Gary M. Kaplan (State Bar No. 1555) **Signed and Filed: April 11, 2016**
gkaplan@fbm.com
2 Farella Braun + Martel LLP
3 235 Montgomery Street, 17th Floor
San Francisco, CA 94104
Telephone: (415) 954-4400
4 Facsimile: (415) 954-4480

5 Attorneys for Debtor in Possession
6 YELLOW CAB COOPERATIVE, II

Dennis Montali
DENNIS MONTALI
U.S. Bankruptcy Judge

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8 UNITED STATES BANKRUPTCY COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN FRANCISCO DIVISION

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12 In re

13 YELLOW CAB COOPERATIVE, INC.,¹
14 Debtor.

Case No. 16-30063

Chapter 11

HEARING

Date: March 17, 2016
Time: 9:30 a.m.
Place: 450 Golden Gate Avenue
San Francisco, CA
Courtroom: 17
Judge: Hon. Dennis Montali

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19 **ORDER ON MOTION FOR RELIEF FROM THE
AUTOMATIC STAY FILED BY IDA CRISTINA CRUZ**

20 At the date and time set forth above, the Court held a hearing on the Motion For Relief
21 From The Automatic Stay To Authorize Prosecution Of The Appeals And Prosecute Any Post-
22 Appellate Proceedings, Including A Retrial As May Ordered By The Court Of Appeal (the
23 “Motion”) submitted by creditor Ida Cristina Cruz Fua (“Fua”). David J. Cook, Esq. and Deidre
24 O’Reilly Marbleston, Esq., appearing on behalf of Fua. Gary M. Kaplan, Esq. of the law firm
25 Farella Braun + Martel LLP, appeared on behalf of Yellow Cab Cooperative, Inc., the debtor in
26 possession herein (“Yellow Cab” or the “Debtor”). John D. Fiero, Esq. of the law firm Pachulski

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¹ The last four digits of the Debtor's tax identification number are 7102. The location of the Debtor's headquarters and service address is 1200 Mississippi Street, San Francisco, CA 94107.

ORDER ON MOT. FOR RELIEF FROM
STAY FILED BY IDA CRISTINA FUA

1 Stang Ziehl & Jones LLP, appearing on behalf of the Official Committee of Unsecured Creditors.
2 Other appearances were as noted in the record. The Court, having considered the Motion, the
3 Debtor's limited opposition thereto, the arguments of counsel at the hearing, and stipulations
4 made by the counsel on the record, and good cause appearing, therefore, including the reasons
5 stated on the record:

6 IT IS HEREBY ORDERED that the automatic stay is lifted under Bankruptcy Code
7 Section 362(d) for good cause to allow Fua, Yellow Cab and Joel Enrique Sanchez ("Sanchez") to
8 prosecute their respective appeals in the case entitled *Fua v. Sanchez*, Case No. A147477, pending
9 before the Court of Appeal, First Appellate District, State of California, (collectively, the "Fua
10 Case Appeals") to conclusion, including any proceedings in the California Court of Appeal, the
11 California Supreme Court or the United States Supreme Court; provided however that (i) no party
12 may enforce any judgment against the Debtor's estate with respect to the case styled *Ida Cristina
13 Cruz Fua v. Joel Enrique Andino Sanchez, et al.*, Case No. CGC-11-515542, filed in the Superior
14 Court of California, County of San Francisco (the "Fua Lawsuit"), other than through the filing of
15 a proof of claim in this Bankruptcy Case, but preserving all rights of Fua to participate in all
16 proceedings, no matter how described, in this bankruptcy case, and (ii) such relief from the
17 automatic stay shall not apply to any post-appellate proceedings in the San Francisco Superior
18 Court (provided further that all Parties reserve their respective rights regarding any further request
19 for relief from the automatic stay to pursue such post-appellate proceedings).

20 IT IS FURTHER ORDERED that to the extent it applies at all the automatic stay is hereby
21 lifted under Bankruptcy Code Section 362(d) for good cause to allow the parties thereto to
22 prosecute their respective claims in that certain action entitled *Continental Insurance Company vs.
23 Joel Enrique Andino Sanchez, et al.*, pending in the San Francisco County Superior Court, Case
24 No. CGC-16-549994 (the "Interpleader Action") to conclusion, for the sole purpose of recovering
25 and collecting the insurance proceeds related to the Fua Lawsuit (the "Continental Insurance
26 Proceeds"), including any appellate proceedings and any enforcement of judgment proceedings to
27 recover and collect the Continental Insurance Proceeds; provided however that (i) no party may
28 enforce any judgment against the Debtor's estate with respect to the Interpleader Action, (ii)

1 Continental has agreed that it will continue to defend each of YCC, Mr. Sanchez and Taxi
2 Equipment Leasing, LLC in the Fua Lawsuit and will defend them in the Fua Case Appeals,
3 notwithstanding the Interpleader Action; (iii) the automatic stay of Bankruptcy Code Section
4 362(a) does not apply to the proceedings in the Interpleader Action to recover and collect the
5 Continental Insurance Proceeds, and (iv) the Continental Insurance Proceeds are not an asset of
6 the Debtor's bankruptcy estate.

IT IS FURTHER ORDERED that the stay under Federal Rule of Bankruptcy Procedure
4001(a)(3) is hereby waived and that this Order is enforceable upon entry.

****END OF ORDER****

APPROVED AS TO FORM:

PACHULSKI STANG ZIEHL & JONES LLP

By: _____ /s John Fiero
John Fiero

Attorneys for The Official Committee of Unsecured Creditors

**COOK COLLECTION ATTORNEYS
A PROFESSIONAL LAW CORPORATION**

By: _____

Attorneys for Creditor IDA CRISTINA CRUZ FUA

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Service List

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[Parties served as ECF Registered Participants pursuant to Bankruptcy Local Rule 9022-1(a)]

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